

Book Review: Law and Psychiatry in the Canadian Context, by David N. Weisstub

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LAW AND PSYCHIATRY IN THE CANADIAN CONTEXT. By DAVID N. WEISSTUB. Toronto: Pergamon Press. 1980. Pp. xxxvi +910.

What is a casebook? As a text it is apparently understood by and useful for law teachers; it is part of the *rite de passage* for law students, but like most other ritual objects remains a mystery to the outsider. It is clearly not a textbook; although it shares some of the same purposes and organizing principles it does not divulge its theories and methods. In what is loosely called the Socratic method a casebook serves the teacher to demonstrate his analytical brilliance and fortifies his importance because without him the student would surely not have a chance to find his way through this curious assortment of tid-bits. Casebooks have come a long way from the collection of cases which gave them their name; now, depending on the field and the author, they incorporate, in addition to fragments of cases, everything from book excerpts to newspaper articles. Law teachers produce them as fast as they can for a captive audience that resells them as fast as they can before they are out of date.

Yet, the tradition is so hallowed (even if it is not that old) that both teacher and student would be at a loss without this *omnium gatherum* in whatever form it is printed or pasted together. The footage of materials a retentive student accumulates is impressive; its future use, however, (like that of textbooks) is exceedingly limited.

Weisstub's *Law and Psychiatry in the Canadian Context*, at a first glance, has all the earmarks of a casebook. There are the obligatory cases, the excerpts from books and articles and even the odd newspaper clipping. It does attempt, however, to give a rationale for the undertaking and to organize the materials in a way that makes it valuable as a reference text. It is also the only published set of materials in Canada in a field that claims increasing attention. To my knowledge there has only been one previous set of materials (produced by Professor R.R. Price of Queen's University). There are, in fact, only a few legal academics who could have produced a casebook in this field and yet there will be an increasing number who will be glad to have it available for their courses.

Weisstub, who is also the editor of the *International Journal of Law and Psychiatry* and has organized a number of international conferences in this field, in addition to having taught the subject for a number of years, has, in spite of my reservations about casebooks, performed a necessary and important service. The materials he draws on are, in fact, more international than Canadian, although specific references to legislation, cases and so forth do provide, as the title says, a Canadian context. Weisstub tries very hard to keep alive a frame of analysis and the introductions to the various chapters not only provide a key to the materials but also demand that the materials be read reflectively and that their fluidity and ambiguity be recognized. What is essential to Weisstub's concern is how the two forms of analysis, law and

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psychiatry, interact; to what kind of social perceptions they speak; how they attempt to protect each other's deficiencies, and yet, also, how they may elicit some insights about each other's boundary conditions. Law, whether it acknowledges it or not, is fraught through and through with psychological concepts and psychiatry, on the other hand, whether it likes it or not, is in the business of human and social ordering.

Chapter I sets out the relationship of psychiatry and law in society. This is followed by an exposition in Chapter II of the mental health process by looking at professionals and their practice with extensive sections on diagnosis and treatment. After this overview "Civil Competency" (Chapter III) serves as a key concept for the analysis of psychiatric entry into various legal areas such as contract, tort and family. This is logically followed by an examination of the psychiatrist in the courtroom (Chapter IV), before the main substantive areas of civil commitment (Chapter V) and of the criminal process (Chapter VI to VIII) are introduced. The final chapter deals with legal control of psychiatric practice, covering topics such as consent, confidentiality and liability. In the areas indicated the materials are rich and varied and provide reference points for almost any question that may be raised. There is only one important area that appears neglected, and that is the area of the interaction of law and psychiatry with regard to families and children which has become of growing importance.

This is a very short outline of a very long text. Since law and psychiatry is usually taught in a seminar format this lexicographic compendium relieves the teacher from having to provide full coverage, which is impossible in any case, and provides the student with a starting point for any research question that may be pursued. For once, this casebook may also be of assistance to practitioners in law and psychiatry since they will not find a comparable Canadian text for information. The volume is well designed and produced, and the detailed table of contents allows easy reference. The index is less helpful.

This review started with reservations about "casebooks." One has to admit, at least in this particular case, that they are necessary and even helpful. I am still uneasy, however, looking at the volume before me and I am left pondering what it is that we claim as knowledge, why it is that we have to learn all these things, and what it is that makes knowledge of this kind necessary. Weisstub makes a valiant attempt to cull out insights and to produce at least organizational clarity. The attempt finally fails through the pull of the tradition which demands yeoman service. In all its attempts to demystify the field one is again overtaken by the kind of mystification we see in judicial decisions and psychiatric reports. The aesthetics of a phenomenology of mind that constitutes itself on this basis remain baroque. Nevertheless, for all those who have to play the game, here are the rules. Others have to wait for the consolidation of Weisstub's analytical work.

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